

## **FIFTH AMENDMENT TO THE INDIANA TOLL ROAD CONCESSION AND LEASE AGREEMENT**

This Fifth Amendment to the Indiana Toll Road Concession and Lease Agreement (this "Fifth Amendment") is made and entered into, as of this 1<sup>st</sup> day of November 2010, by and between the Indiana Finance Authority, a public body politic and corporate of the State of Indiana (the "IFA") and ITR Concession Company LLC, a Delaware limited liability company (the "Concessionaire").

### **RECITALS**

**WHEREAS**, the IFA and the Concessionaire are parties to the Indiana Toll Road Concession and Lease Agreement, dated April 12, 2006 ("Concession Agreement"); and

**WHEREAS**, the Concession Agreement was previously amended on: April 12, 2006 ("First Amendment"); June 29, 2006 ("Second Amendment"); August 10, 2007 ("Third Amendment"); and February 5, 2008 ("Fourth Amendment"); and

**WHEREAS**, the parties desire to further amend the Concession Agreement as set forth herein; and

**WHEREAS**, all capitalized terms used in this Fifth Amendment but not otherwise defined herein shall have the respective meanings given to such terms in the Concession Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and promises contained herein and in the Concession Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound, hereby agree as follows:

**SECTION 1.** Items #2 and #3 of Schedule 5.5 of the Concession Agreement are hereby deleted in their entirety and the following language is inserted in lieu thereof:

2. Expand to 3 travel lanes in each direction from Milepost 14.0 to Milepost 15.5 by December 31, 2011.
3. Expand to 3 travel lanes in each direction from Milepost 10.6 to Milepost 14.0 and lower Toll Road elevation to accommodate the flight path of Gary Chicago International Airport by December 31, 2011.

**SECTION 2.** This Fifth Amendment is limited as specified and shall not constitute a modification, acceptance or waiver of any other provision of the Concession Agreement. The parties hereto reconfirm the agreements, rights and remedies as set forth in the Concession Agreement.

**SECTION 3.** This Fifth Amendment may be executed in multiple counterparts, each of which will be considered an original. Facsimile signatures of original signatures shall be deemed

original signatures. Only one counterpart of this Fifth Amendment executed by the party against which it will be enforced need be provided to evidence this Fifth Amendment.

**SECTION 4.** This Fifth Amendment shall be governed by, and interpreted and enforced in accordance with, the laws in force in the State of Indiana (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

**SECTION 5.** From the date on which this Fifth Amendment shall have been executed by the IFA and the Concessionaire, all references in the Concession Agreement to the Concession Agreement shall be deemed to be references to the Concession Agreement as modified hereby.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the date set forth above.

"IFA"

INDIANA FINANCE AUTHORITY

By: Jennifer M. Alvey  
Printed: Jennifer M. Alvey  
Title: Public Finance Director of  
the State of Indiana

"CONCESSIONAIRE"

ITR CONCESSION COMPANY LLC

By: Fernando Redondo  
Printed: FERNANDO REDONDO  
Title: CEO